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### **REMARKS/ARGUMENTS**

Claims 1- 26 are pending in the application. Claim 7 stands objected to. Claims 1-26 stand rejected.

Independent claims 1, 14, 17, and 24, and dependent claims 4, 7, and 10, have been amended.

No new matter has been added by the foregoing amendments, full support therefore being shown in the drawings and specification as filed. All claims remaining in the application are believed to now be in condition for allowance.

Reconsideration and reexamination of the application is respectfully requested in view of the referenced amendments and the following remarks.

#### **Claim Objections**

Claim 1 stands objected to as allegedly having insufficient antecedent basis for the limitation "the base frame." The objection is traversed.

Claim 7 has been amended to remove the limitation "the base frame." Thus, the objection is moot. Applicants request withdrawal of the objection and the allowance of claim 7.

#### **Claim Rejections - 35 U.S.C. §102(b)**

Claims 1, 2, 4, 5, 7, 8, 14, 15, 17, and 18 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 4,856,886 to Polzer. The rejection is traversed.

The claimed invention is not anticipated under §102 unless each and every element of the claimed invention is found in the prior art. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367; 231 USPQ 81 (Fed. Cir. 1986). To anticipate, a single

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reference must teach each and every limitation of the claimed invention. *Eolas Technologies Inc. v. Microsoft Corp.*, 399 F.3d 1325, 1335; 73 U.S.P.Q.2D (BNA) 1782 (Fed. Cir. 2005). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226; 9 USPQ2d 1913 (Fed. Cir. 1989).

Polzer '886 discloses a vehicular rearview mirror assembly comprising a mirror glass 21 mounted on a backing plate 18. The backing plate 18 is provided with a socket 24, referred to in Polzer '886 as a "stud," holding a ball forming a first ball and socket connection between a lower link 58 and the backing plate 18. The lower link 58 terminates in a cage 92 which encloses a ball 91 to form a second ball and socket connection 59, referred to in Polzer '886 as in "articulation joint." The ball 91 is attached to a lower coupling arm 54 which is, in turn, attached to an arm 44 seated in a bearing block 30 and provided with a ball 43 forming a third ball and socket joint, and to a control rod 60 having a handle 62 attached thereto for moving and rotating the control rod 60. Manipulation of the control rod 60 results in tilting of the mirror glass 21 about vertical and horizontal axes 22, 23, respectively for adjustment of the field of view.

Amended claim 1 in pertinent part calls for a vehicular rearview mirror assembly comprising a base assembly including an extension arm, a reflective element assembly attached to the extension arm and moveable along the extension arm, and wherein the reflective element assembly is slidably movable along the extension arm via a plurality of low friction bearings interposed between the extension arm and the reflective element assembly comprising at least one of a ball bearing and a roller bearing.

Amended claim 14 in pertinent part calls for a vehicular rearview mirror assembly comprising a reflective element assembly comprising a mounting frame, an extension arm mounted to a vehicle, the reflective element assembly moveably attached to the extension arm, and a plurality of low friction bearings attached to the interposed between the

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mounting frame and the extension arm for facilitating translation of the reflective element assembly along the extension arm.

Amended claim 17 in pertinent part calls for a vehicular rearview mirror assembly comprising a base assembly comprising a base frame, at least one support arm for supporting a reflective element assembly, the support arm moveably connected to the base frame for selectively folding the reflective element assembly against the vehicle, said reflective element assembly moveably attached to the support arm for extending the reflective element assembly away from the vehicle, and a plurality of low friction bearings interposed between the reflective element assembly and the support arm for facilitating movement of the reflective element assembly relative to the vehicle.

The rearview mirror assembly of Polzer '886 does not teach each and every limitation of amended claim 1. First, Polzer '886 does not disclose an extension arm. The extension arm called for in claim 1 is adapted for linear extension and retraction of the reflective element assembly away from and toward, respectively, the motor vehicle. Structurally, it bears no resemblance to the control rod 60 disclosed in Polzer '886. *See, Application, ¶¶ [0032] - [0036]*. Furthermore, simply calling the control rod 60 an extension arm does not make it so.

Second, claim 1 calls for the reflective element assembly to be movable along the extension arm. "Along" means "over the length of." *The American Heritage® Dictionary of the English Language, 4th Ed., Houghton Mifflin Company (2000)*. Thus, claim 1 requires that the reflective element assembly be movable over the length of the extension arm. The rearview mirror assembly of Polzer '886 is incapable of such movement. This important limitation is completely, and erroneously, ignored by the Examiner.

Finally, claim 1 calls for the reflective element assembly to be slidably movable along the extension arm via low friction bearings. Polzer '886 does not disclose low friction bearings. Element 24 of Polzer '886 is not a low friction bearing; it is a socket.

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Element 59 is not a low friction bearing; it is an articulation joint. Element 30 is not a low friction bearing; it is a bearing block. Furthermore, none of the spherical structures associated with these elements is a low friction bearing. Indeed, the functioning of the spherical structures as disclosed in Polzer '886 indicates that the spherical structures are frictionally held in their cradles or sockets in order to provide stability to the mirror glass 21. If these spherical structures were indeed low friction bearings, the mirror glass 21 would be subject to vibration, rendering the mirror useless. Moreover, the mirror glass 21 of Polzer '886 is not slidably movable along the control rod 60 via the spherical structures, as required by claim 1.

Since Polzer '886 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 1 is patentable over Polzer '886. Applicants request that the rejection be withdrawn, and that claim 1 be allowed.

The rearview mirror assembly of Polzer '886 does not teach each and every limitation of amended claim 14. As with amended claim 1, amended claim 14 calls for an extension arm, and low friction bearings. Furthermore, claim 14 calls for the low friction bearings to facilitate translation of the reflective element assembly along the extension arm. As discussed above, Polzer '886 does not disclose an extension arm. Additionally, Polzer '886 does not disclose low friction bearings. Finally, Polzer '886 does not disclose translation of the mirror glass 21 along the control rod 60. Since Polzer '886 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 14 is patentable over Polzer '886. Applicants request that the rejection be withdrawn, and that claim 14 be allowed.

Finally, the rearview mirror assembly of Polzer '886 does not teach each and every limitation of amended claim 17. Amended claim 17 calls for a support arm for selectively folding the reflective element assembly against the vehicle, and a plurality of low friction bearings for facilitating movement of the reflective element assembly relative

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to the vehicle. Polzer '886 does not disclose the support arm of amended claim 17. The control rod 60 of Polzer '886 is not a support arm; it is a pivotable and rotatable rod for manipulating the orientation of the mirror glass 21. Furthermore, as discussed above, Polzer '886 does not disclose a plurality of low friction bearings. Since Polzer '886 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 17 is patentable over Polzer '886. Applicants request that the rejection be withdrawn, and that claim 17 be allowed.

Claims 2, 4, 5, 7, and 8 depend, directly or indirectly, from claim 1, and for the same reasons as set forth above are patentable over Polzer '886. Claim 15 depends from claim 14, and claim 18 depends from claim 17. Claims 14 and 17 are for the same reasons as set forth above patentable over Polzer '886. Applicants request that the rejection of claims 2, 4, 5, 7, 8, 15, and 18 be withdrawn and that these claims be allowed.

Claims 1, 2, 4, 5, 7, 8, 10, 11, 12, 14, and 15 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,600,497 to Leonberger. The rejection is traversed.

As with Polzer '886, Leonberger '497 discloses a vehicular rearview mirror having a reflective element attached to a linkage assembly for adjustment of the field of view through an actuating lever 11 manipulated by an occupant within the passenger compartment of the vehicle.

The Examiner asserts that Leonberger '497 discloses the extension arm called for in claims 1 and 14, and identifies one arm 13 of a two-armed lever as the extension arm. However, contrary to the limitation of claim 1, the reflective element assembly 3, 37 is not attached to the arm 13. It is attached to an intermediate lever 15. Furthermore, the reflective element assembly 3, 37 is not movable along the arm 13. Finally, Leonberger '497 does not disclose low friction bearings. The structures identified by the Examiner as

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low friction bearings are in fact pivot connections. There is nothing in Leonberger '497 that even suggests that the pivot connections are low friction. Indeed, it is more likely that the use pivot connections are not low friction since the use of low friction connections would result in vibration of the reflective element assembly and distortion of the image, rendering the mirror unusable.

Since Leonberger '497 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 1 is patentable over Leonberger '497. Applicants request that the rejection be withdrawn, and that claim 1 be allowed.

As with amended claim 1, amended claim 14 calls for an extension arm, and low friction bearings. Furthermore, claim 14 calls for the low friction bearings to facilitate translation of the reflective element assembly along the extension arm. As discussed above, Leonberger '497 does not disclose an extension arm. Additionally, Leonberger '497 does not disclose low friction bearings. Finally, Leonberger '497 does not disclose translation of the reflective element assembly 30, 37 along the arm 13. Since Leonberger '497 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 14 is patentable over Leonberger '497. Applicants request that the rejection be withdrawn, and that claim 14 be allowed.

Claims 2, 4, 5, 7, 8, 10, 11, and 12 depend, directly or indirectly, from claim 1, and claim 15 depends from claim 14. For the reasons discussed above, 2, 4, 5, 7, 8, 10, 11, and 15 are patentable over Leonberger '497. Applicants request that the rejection of claims 2, 4, 5, 7, 8, 10, 11, and 15 be withdrawn, and that the claims be allowed.

Claim 17, 18, 20, 21, 22, 24, and 25 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent No. 5,909,326 to Leonberger. The rejection is traversed.

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Leonberger '326 discloses an exterior rearview mirror comprising a mirror housing 3 pivotable about a vertical axis. A support plate 4 is fastened to a mirror 5 which is adjustable vertically and horizontally with an adjusting device 6 having a control lever 7. A control member 13 is attached at a first end to a U-shaped bracket 9 connected to the control lever 7. The control member 13 is pivotable about an axle 14 and is attached at a second end to the support plate 4 through a bearing member 23. Movement of the control lever 7 will urge the control member 13 to pivot about the axle 14 for vertical and horizontal adjustment of the mirror 5. The control lever 7 is mounted in a ball and socket joint through a ball 8. The control member 13 terminates at its second end in a ball 22 which is mounted in a ball and socket joint to the bearing member 23. The support plate 4 is attached to a bearing receiving unit 25 forming a ball and socket joint with a bearing ball 24.

The rearview mirror assembly of Leonberger '326 does not teach each and every limitation of amended claim 17. Amended claim 17 calls for a support arm for selectively folding the reflective element assembly against the vehicle, and a plurality of low friction bearings for facilitating movement of the reflective element assembly relative to the vehicle. Leonberger '326 does not disclose the support arm of amended claim 17. The control member 13 of Leonberger '326 is not a support arm; it is a rod for manipulating the orientation of the mirror glass 5. It does not support the mirror 5. The mirror 5 is supported by the ball and socket joint of the bearing receiving unit 25 and the bearing ball 24. Furthermore, Leonberger '326 does not disclose a plurality of low friction bearings. The ball and socket joints 8, 22 and 23, 24 and 25 are not low friction bearings. There is nothing in Leonberger '326 to suggest that they are. Indeed, it is more likely that the ball and socket joints are not low friction since the use of low friction connections would result in vibration of the mirror assembly and distortion of the image, rendering the mirror unusable.

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Finally, claim 17 calls for a support arm movably connected to the base frame for folding the reflective element assembly against the vehicle and movably attached to the reflective element assembly for extending the reflective element assembly away from the vehicle. The control member 13 of Leonberger '326 is not capable of this functionality and does not satisfy this limitation. Leonberger '326 does not disclose movably attaching the mirror glass 5 to the control member 13 in order to extend the mirror glass 5 away from the vehicle. Since Leonberger '326 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 17 is patentable over Leonberger '326. Applicants request that the rejection be withdrawn, and that claim 17 be allowed.

The rearview mirror assembly of Leonberger '326 does not teach each and every limitation of amended claim 24. Amended claim 24 in pertinent part calls for a vehicular rearview mirror assembly comprising a support arm for supporting a reflective element assembly and pivotably connected to a base frame for selectively folding the reflective element assembly against the vehicle, the reflective element assembly also moveably attached to the support arm for extending the reflective element assembly away from the vehicle.

As with claim 17, claim 24 calls for a support arm movably connected to the base frame for folding the reflective element assembly against the vehicle and movably attached to the reflective element assembly for extending the reflective element assembly away from the vehicle. As discussed above, the control member 13 of Leonberger '326 is not capable of this functionality and does not satisfy this limitation. Furthermore, Leonberger '326 does not disclose movably attaching the mirror glass 5 to the control member 13 in order to extend the mirror glass 5 away from the vehicle. Since Leonberger '326 does not "teach each and every limitation of the claimed invention... in as complete detail as is contained in the claim," amended claim 24 is patentable over Leonberger '326. Applicants request that the rejection be withdrawn, and that claim 24 be allowed.



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Claims 18, 20, 21, and 22 depend from claim 17, and claim 25 depends from claim 24. For the same reasons as discussed above with respect to claims 17 and 24, claims 18, 20, 21, 22, and 25 are patentable over Leonberger '326. Applicants request that the rejection be withdrawn, and that claims 17, 18, 20, 21, 22, 24, and 25 be allowed.

#### **Claim Rejections - 35 USC §103(a)**

Claims 3, 6, 9, 13 and 16 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Leonberger '497 in view of U.S. Patent No. 5,984,483 to Mazurek et al. The rejection is traversed.

Mazurek '483 discloses a mirror assembly having an outer mirrored substrate 5 and an inner mirrored substrate 6 mounted within a case 1. The outer mirrored substrate 5 is fixedly attached to the case 1, and is partially transmissive and partially reflective. The inner mirrored substrate 6 is fully reflective and is pivotally movable between a first position immediately behind the outer substrate 5 and a second position away from the outer substrate 5.

The standards for a finding of obviousness must be strictly adhered to. Simply citing one or more prior art references that illustrate different facets of the invention and then concluding that it would be obvious to combine the references to create the applicant's invention is wholly inadequate.

A claimed invention is unpatentable if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art....The ultimate determination of whether an invention would have been obvious under 35 U.S.C. §103(a) is a legal conclusion based on underlying findings of fact.<sup>1</sup>

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<sup>1</sup> The underlying factual inquiries include (1) the scope and content of the prior art; (2) the level of ordinary skill in the prior art; and (3) the differences between the claimed invention and the prior art. *Graham v.*

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A critical step in analyzing the patentability of claims pursuant to section 103(a) is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted wisdom in the field....Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher."

Most if not all inventions arise from a combination of old elements....Thus, every element of a claimed invention may often be found in the prior art....However, **identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention....**Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, **there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant....**Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.

The motivation, suggestion or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved....In addition, the teaching, motivation or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references....The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art....Whether the Patent Office Examiner relies on an express or an implicit showing, **the Examiner must provide particular**

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*John Deere Co., 383 U.S. 1, 17, 15 L. Ed. 2d 545, 86 S. Ct. 684 (1966).*

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**findings related thereto....Broad conclusory statements standing alone are not "evidence."**

*In Re Werner Kotzab, 217 F.3d 1365; 55 U.S.P.Q.2d (BNA) 1313 (Fed. Cir. 2000)(citations omitted)(emphasis added).*

The combination as made in the Office action fails to identify any motivation, suggestion, or teaching in either Leonberger '497 or Mazurek '483 of the desirability of combining Leonberger '497 and a Mazurek '483 to arrive at Applicant's invention. There has been no statement identified in either Leonberger '497 or Mazurek '483 as to the desirability of the asserted combination, there has been no discussion of the knowledge of one of ordinary skill in the art or the nature of the problem to be solved, there has been no identification of what the teaching of Leonberger '497 or Mazurek '483, the knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to one of ordinary skill in the art as required for a showing of motivation. The combination as asserted fails to provide any particular findings related to any motivation, suggestion, or teaching of the desirability of combining Leonberger '497 and Mazurek '483. The combination as asserted simply relies upon "broad conclusory statements standing alone," which can only lead to the conclusion that the combination as asserted is simply based on impermissible hindsight reconstruction of Applicant's invention.

Claims 3, 6, 9, 13 and 16 depend from claims 1 and 14. As discussed above, claims 1 and 14 are patentable over Leonberger '497. Claims 1 and 14 are also patentable over Leonberger '497 in view of Mazurek '483, since Mazurek '483 fails to provide elements of claims 1 and 14 not disclosed in Leonberger '497. Claim 1 calls for an extension arm adapted for linear extension and retraction of the reflective element assembly away from and toward, respectively, the motor vehicle. There is no such

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support arm disclosed in either Leonberger '497 or Mazurek '483. The combination of Leonberger '497 and Mazurek '483 does not reach this limitation.

Claim 1 calls for a reflective element assembly movable along the extension arm. As discussed above, the mirror assembly of Leonberger '497 is incapable of such movement. The mirror assembly of Mazurek '483 is also incapable of such movement. Thus, the combination of Leonberger '497 and Mazurek '483 does not reach this limitation.

At best, the combination of Leonberger '497 and Mazurek '483 would result in a rearview mirror assembly in which the reflective element is adjustable about vertical and horizontal axes by a linkage system operable from within the vehicle, wherein the reflective element comprises a partially transmissive and partially reflective outer mirrored substrate fixedly attached to an enclosure, and a fully reflective inner mirrored substrate pivotally movable between a first position immediately behind the outer substrate and a second position away from the outer substrate. This is not the invention of claim 1.

Claim 1 is patentable over Leonberger '497 in view of Mazurek '483. Because claim 1 is patentable over Leonberger '497 in view of Mazurek '483, claims 3, 6, 9, and 13, which depend from claim 1, are also patentable for the same reasons over Leonberger '497 in view of Mazurek '483. Applicants request that the rejection be withdrawn and that claims 3, 6, 9, and 13 be allowed.

Claim 14 calls for an extension arm, and low friction bearings to facilitate translation of the reflective element assembly along the extension arm. Leonberger '497 does not disclose an extension arm, or translation of the reflective element assembly 30, 37 along the arm 13. Mazurek '483 does not disclose the extension arm of claim 14 or translation of a reflective element assembly along an extension arm, and thus does not provide the elements of claim 14 not disclosed in Leonberger '497. The combination of

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Leonberger '497 and Mazurek '483 does not reach the limitations of claim 14. Thus, claim 14 is patentable over Leonberger '497 in view of Mazurek '483.

Because claim 14 is patentable over Leonberger '497 in view of Mazurek '483, claim 16, which depends from claim 14, is also patentable for the same reasons over Leonberger '497 in view of Mazurek '483. Applicants request that the rejection be withdrawn and that claim 16 be allowed.

Claims 19, 23, and 26 stand rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Leonberger '497 in view of Mazurek '483. The rejection is traversed.

Claims 19 and 23 depend from claim 17 and claim 26 depends from claim 24. Claim 17 calls for a support arm for selectively folding the reflective element assembly against the vehicle. Leonberger '497 does not disclose the support arm of amended claim 17. The arm 13 of Leonberger '497 is not the support arm of claim 17. The arm 13 is part of a linkage for enabling the adjustment of a reflective element from within the vehicle. It is in no way related to selectively folding the reflective element assembly against the vehicle. Indeed, the mirror assembly of Leonberger '497 does not appear to be foldable against the vehicle.

As discussed above, Mazurek '483 does not disclose the support arm of claim 17. Thus, the combination of Leonberger '497 and Mazurek '483 does not reach the limitations of claim 17. Because claim 17 is patentable over Leonberger '497 in view of Mazurek '483, claims 19 and 23, which depend from claim 17, are also patentable for the same reasons over Leonberger '497 in view of Mazurek '483. Applicants request that the rejection be withdrawn and that claims 19 and 23 be allowed.

Claim 24 calls for a support arm for supporting a reflective element assembly and pivotably connected to the base frame for selectively folding the reflective element assembly against the vehicle, the reflective element assembly also moveably attached to

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the support arm for extending the reflective element assembly away from the vehicle. Leonberger '497 does not disclose this structure. The arm 13 of Leonberger '497 is not the support arm of claim 24. Furthermore, the arm 13 is in no way related to selectively folding the reflective element assembly against the vehicle as called for in claim 24. Finally, Leonberger '497 does not disclose translation of the reflective element assembly 30, 37 along the arm 13.

Mazurek '483 does not disclose the support arm of claim 24, or selectively folding a reflective element assembly against the vehicle, or translation of a reflective element assembly along a support arm. Thus, the combination of Leonberger '497 and Mazurek '483 does not reach the limitations of claim 24. Because claim 24 is patentable over Leonberger '497 in view of Mazurek '483, claim 26, which depends from claim 24, is also patentable for the same reasons over Leonberger '497 in view of Mazurek '483. Applicants request that the rejection be withdrawn and that claim 26 be allowed.

### CONCLUSION

For the reasons discussed above, all claims remaining in the application are allowable over the prior art. Early notification of allowability is respectfully requested.

Applicants respectfully request an Advisory Action be issued in this case. If there are any remaining issues which the Examiner believes may be resolved in an interview, the Examiner is respectfully invited to contact the undersigned.

Respectfully submitted,

KEITH FOOTE ET AL.

Dated: 4/10/06

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